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| 09/450,640 | 11/24/1999 | DAVID M. KOTICK | 82.174 | 7957 |

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EXAMINER

DUONG, DUC T

ART UNIT PAPER NUMBER

2663

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/450,640

Applicant(s)KOTICK ET AL. ☒**Examiner**

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 18 and 28-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-13, 18 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-13, 18, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomason (U.S. Patent 6,137,039 B1) in view of Jordan et al (U.S. Patent 6,249,241 B1).

Regarding to claims 2, 9, 11, 18, and 36, Thomason discloses an audio communication control system useful in training operations on tactical systems communication equipment, the audio communication control system (Fig. 1) comprising communications equipment 102-105 operable from a plurality of remote locations 101 for communication with a centralized control center 108 (Fig. 1 col. 2 lines 65-67 and col. 3 lines 1-6), the communications equipment including a plurality of audio communications systems (Fig. 2 col. 3 lines 44-47), wherein at least one of the plurality of audio communications audio equipment and signal processing 103 (Fig. 2 col. 3 lines 48-61); a tactical training system (col. 2 lines 4-18) operable with the central control center for interfacing with tactical training equipment 102-136 distributed through the plurality of remote locations, the tactical training equipment providing a communications connection to a wide area network WAN 107 for communicating with other remote locations communication equipment (Fig 3 col. 5 lines 39-43); a single headset 111

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having left/right speaker 135 and a microphone 134 for providing an operator with voice transmission (Fig. 3 col. 5 lines 35-38); an audio interface 110 for operating between the tactical training system and the headset to provided an electrical connection to the communications equipment for operation therewith (Fig. 3 col. 5 lines 48-57), the audio interface switching discrete audio communications signals therefrom and routing the audio signals to one of the left speaker, the right speaker, and the microphone of the headset (Fig. 3 col. 5 lines 58-61); and an operator control interface 109 operable with the audio interface for controlling the routing and switching of the audio signals (Fig. 3 col. 6 lines 1-10), the operator control interface including an interactive graphical display for selection of the communication equipment to be operable with the single headset (Fig. 3 col. 5 lines 61-67).

Thomason fails to teach the communication equipments is onboard a ship consisting of a radio telephone system (claims 2 and 18); a time encoder operable with a global positioning system for time stamping of audio packets transmitted across the WAN (claim 9); and the graphical display of the operator control interface comprises scenario control buttons for selection of a desired virtual frequency channel of the WAN for input to one of the left speaker and the right speaker (claims 11 and 36).

However, Jordan discloses a Vessel Traffic System VTS with communications equipment onboard a ship (Fig. 1 col. 5 lines 21-32) consisting of a radio telephone system 26 (Fig. 2B col. 7 lines 19-25); a time encoder operable with a global positioning system for time stamping of audio packets transmitted across the WAN (Fig. 15 col. 16 lines 49-60); and a graphical display for the operator to selects a desired virtual

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frequency channel of the WAN for input to one of the left speaker and the right speaker (col. 15 lines 14-19).

Thus, it would have been obvious to a person of ordinary skill in the art to placed the communication equipment onboard a ship as taught by Jordan in Thomason's system to provides a quick, accurate, and efficient way of monitoring and controlling the operations of maritime traffic. The motivation to so would have been to ensure safe passage and the orderly passage of vessels.

Regarding to claim 3, Thomason discloses the tactical training system comprises a battle force tactical trainer 109 (Fig. 1 col. 3 lines 11-14).

Regarding to claim 4, Thomason, in view of Jordan, discloses all the limitation with respect to claim 1 including a central processing unit 110 operable with the operator control interface for processing control functions thereof (Fig. 3 col. 5 lines 49-57), and wherein the central processing unit receives input for selection of the routing and switching (Fig. 3 col. 5 lines 58-67). However, Thomason and Jordan fail to teach for receiving inputs from a mouse. To arrange a receiving an inputs from a mouse would have been obvious to a person of ordinary skill in the art, since such arrangement is well known in the art to be use in computer system.

Regarding to claim 5, Thomason discloses a personal computer 100 operable with the audio interface (Fig. 3 col. 5 lines 35-38); a monitor operable with the personal computer for displaying the graphical display (Fig. 3 col. 5 lines 58-67); and an input device 134 for operation with the operator control interface (Fig. 3 col. 5 lines 51-58).

Regarding to claim 6, Thomason, in view of Jordan, discloses all the limitation with respect to claims 5 and 32 including the input device operable with the monitor for selecting the communications systems and routing of audio signals to the headset (Fig. 3 col. 5 lines 58-67). However, Thomason and Jordan fail to teach for receiving inputs from a mouse. To arrange a receiving an inputs from a mouse would have been obvious to a person of ordinary skill in the art, since such arrangement is well known in the art to be use in computer system.

Regarding to claim 7, Thomason discloses a network control module 123 for sending and receiving network packets of information across a WAN 107 (Fig. 3 col. 5 lines 39-43).

Regarding to claim 8, Thomason discloses a digital signal processor 117 for converting analog audio signal received from the communication equipment into a digital signal for processing thereof (Fig. 3 col. 5 lines 58-61).

Regarding to claims 10 and 38, Thomason discloses displaying left and right channel buttons (Fig. 3 col. 5 lines 61-67, the technician 109 selected the individual windows (left and right channel buttons) to display).

Regarding to claim 12, Thomason and Jordan disclose all the limitation with respect to claim 2, including a graphical display of the operator control interface comprises an interphone button for accessing equipment with an interphone communications system (Jordan, Fig. 2B col. 7 lines 19-31). However, Thomason and Jordan fail to teach the interphone communications system employ a speed dial menu. To arrange speed dial menu in an interphone communications system would have been

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obvious to a person of ordinary skill in the art to obtain a shortcut in which user needs only dial a single number to reach the destination. The motivation to do so would have been to prevent error due to dialing a wrong number of the multiple numbers of the destination.

Regarding to claims 13 and 37, Thomason discloses the graphical user interface display that's reconfigurable to a desired communication system display (Fig. 3 col. 5 lines 61-67).

Response to Arguments

3. Applicant's arguments filed October 10, 2004 have been fully considered but they are not persuasive. Regarding to Applicant's argument on page 10 with respect to claim 2, 9, 11, 18, and 36, Thomason fails to teach a communication system that **"integrate preexisting independent communications system into the communications stream"** or **"different species of communications equipment"**. In response, it is noted that the features upon which applicant relies (i.e., **"integrate preexisting independent communications system into the communications stream"** or **"different species of communications equipment"**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding to Applicant's argument on page 11 with respect to claims 2, 9, 11, 18, and 36, the configuration (Fig. 3) in Thomason's system shows only one remote location while the Applicant's invention provides a plurality of remote locations. In reply, Thomason discloses a plurality of

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remote locations 102, see fig. 5 col. 7 lines 30-38. Regarding to Applicant's argument on page 11 with respect to claims 2, 9, 11, 18, and 36, Thomason's system **"teach away from the Applicant's invention because the user would have to adjust or remove the head phones to user the cell phone"**. In reply, it is held by the Patent Office that the provision of adjustability is not a patentable advance, see *In re Stevens*, 101 USPQ 284 (CCPA 1954). Regarding to Applicant's argument on page 11 with respect to claims 2, 9, 11, 18, and 36, Thomason's communications equipment 102-105 is only an integral portion of the system, whereas the communication equipment of Applicant's invention is ones that can be integrates with other equipments. In reply, all of the essential elements of the claims except integration of parts, are found in the references. It appears then the unity or diversity of parts would depend more upon the choice of the manufacturer, and the convenience and availability of the machines and tools to construct the system, than on any inventive concept, see *In re Lockhart*, 90 USPQ 214 (CCPA 1951). In response to Applicant's argument on page 12 with respect to claims 2, 9, 11, 18, and 36, there is no motivation to combined Jordan and Thomason. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to

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used Jordan as a secondary reference can be found on col. 1 lines 59-67. In response to applicant's argument on page 12 with respect to claim 3 that the **“Battle Force Tactical Trainer BFFT provides the US Navy with onboard training for many different functions performed on a ship”**, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD
DD


RICKY NGO
PRIMARY EXAMINER

2/15/05